

REMARKS

The Office Action mailed May 3, 2006 has been reviewed and carefully considered. Independent claims 1, 13, 25, and 28 stand rejected under 35 U.S.C. 103(a) as being obvious over U.S. Patent No. 6,173,322 issued to Hu ("Hu") in view of U.S. Patent No. 6,279,001 issued to Debettencourt ("Debettencourt"). Applicants respectfully traverse this rejection. The Examiner also rejects claims 1 through 39 under 35 U.S.C. 101 as being directed to non-statutory subject matter. The rejected claims have been revised in a manner that is believed to overcome any basis for rejection of these claims. Claims 1 through 3, 13, 14, 25, 26, 28, and 29 are currently amended, with claims 1 through 39 now pending in the application. No new matter has been added.

In the Office Action, the Examiner indicates that claims 3, 6 through 8, 10 through 12, 15, 18 through 20, 22 through 24, 30, 33 through 35, and 37 through 39 are deemed allowable if rewritten in independent form. Applicant wishes to thank the Examiner for indicating that these claims are allowable if rewritten. At the present juncture, however, Applicant chooses to defer a rewriting of these claims until a final resolution of the matters discussed below.

With respect to independent claims 1, 13, 25 and 28, Hu and Debettencourt, considered either alone or in combination, fail to teach or suggest all the claimed elements. Specifically, the combination of references do not disclose randomly selecting a second different resource with a second load value among the plurality of resources in accordance with a predefined second random selection function when said first comparison returns true, wherein said first random selection function is different from said second random selection function.

Hu, which is the primary reference upon which the Examiner relies, fails to teach performing a first comparison between a first load value and a predetermined threshold value. Debettencourt is relied on to overcoming this deficiency. At best, Debettencourt's comparison between the threshold and load value provide the ability to re-direct the request away from the overloaded server. Debettencourt, Col. 25, lines 15-29. Debettencourt, however, is silent regarding selection of a second different resource with a second load value when said first comparison returns true. Furthermore, Debettencourt is also silent regarding the utilization of a second different random selection function in order to achieve said selection.

Consequently, Hu and Debettencourt, either alone or in combination, do not teach or suggest the claim elements of claims 1, 13, 25 and 28 for at least the above reasons. Accordingly, applicants respectfully request withdrawal of the rejection of independent claims 1, 13, 25 and 28 as obvious over Hu in view of Debettencourt and allowance regarding the same.

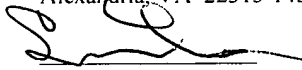
The dependent claims of the present application contain additional features that further substantially distinguish the invention of the present application over the prior art of record. Given the Applicants' position on the patentability of the independent claims, however, it is not deemed necessary at this point to delineate such distinctions.

For at least the above reasons, Applicants respectfully request that the Examiner withdraw all rejections and objections, and allowance of all the pending claims is respectfully solicited. To expedite prosecution of this application to allowance, the examiner is invited to call the applicants' undersigned representative to discuss any issues relating to this application.


Respectively submitted,

Dated: September 5, 2006

I hereby certify that the correspondence attached herewith is being transmitted by First Class Mail to, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450:


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September 5, 2006
Date


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